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10/749,258	01/02/2004	Steven W. Taatjes		8561

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EXAMINER

EDELL, JOSEPH F

ART UNIT PAPER NUMBER

3636

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/749,258

Applicant(s)

TAATJES, STEVEN W.

Examiner

Joseph F. Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claims 1, 4, 6, 10, and 12 are objected to because of the following informalities:
 - a. claim 1, line 1, "post" should read --a post--;
 - b. claim 4, line 1, "said adjustable means" should read --said means for biasing--;
 - c. claim 6, line 8, "said adjustable means for altering the biasing force" should read --said means for biasing to alter a biasing force--;
 - d. claim 10, line 1, "said adjustable means" should read --said means for biasing--;
 - e. claim 12, lines 3-8, "-" hyphens should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3, 4, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. RE7,215 to White.

White discloses a chair that includes all the limitations recited in claims 1, 3, 4, and 12. White shows a chair having a guideway C (Fig. 3) on a chair back (Fig. 2) in which a post H (Fig. 3) is carried, a retainer assembly D (Fig. 2) on the chair back with an arm *f'* (Fig. 2) having a distal end and a proximal end, a support member (Fig. 3)

supporting the proximal end of the arm, and a means for biasing (Fig. 3) the distal end of the arm toward the post and including a threaded adjustment screw *f* (Fig. 3) wherein the means for biasing is capable of inhibiting post movement along the guideway to enable the headrest positioning relative to the chair back by selected degrees of manual force. Claims 1 and 4 invoke 35 U.S.C. 112, sixth paragraph, with the claim recitation of "means for biasing" limiting claims to the disclosed description of the "means for biasing" or equivalents thereof.

4. Claims 1, 3, 6, 7, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,602,139 to Wiederstein.

Wiederstein discloses a chair that includes all the limitations recited in claims 1, 3, 6, 7, and 9. Wiederstein shows a chair having a guideway 18 (Fig. 8) on a chair back 15 (Fig. 1) in which a post 19 (Fig. 2) is carried, a retainer assembly (Fig. 3) on the chair back with an arm 32 (Fig. 4) having a distal end and a proximal end, a support member 30 (Fig. 3) supporting the proximal end of the arm, a removable fastener 40 (Fig. 2) normally seated in the chair back, and a means for biasing (Fig. 2) the distal end toward the post to inhibit post movement along the guideway to enable the headrest positioning relative to the chair back by selected degrees of manual force wherein the chair back is capable of providing an opening (Fig. 8) upon removal of the fastener that permits access of a tool to the means for biasing to alter a biasing force of the retainer applied to the post. Claims 1, 4, 6, and 10 invoke 35 U.S.C. 112, sixth paragraph, with the claim recitation of "means for biasing" limiting claims to the disclosed description of the "means for biasing" or equivalents thereof.

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5. Claims 1, 3, 4, 6, 7, 9, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,128,274 to Schmedemann.

Schmedemann discloses a chair that includes all the limitations recited in claims 1, 3, 4, 6, 7, 9, 10, and 12. Schmedemann shows a chair having a guideway 8 (Fig. 1) on a chair back (Fig. 1) in which a post 1 (Fig. 1) is carried, a retainer assembly 47 (Fig. 4) on the chair back with an arm 42 (Fig. 4) having a distal end and a proximal end, a support member (Fig. 4) supporting the proximal end of the arm, a removable fastener 44 (Fig. 4) normally seated in the chair back, and a means for biasing (Fig. 4) the distal end toward the post to inhibit post movement along the guideway to enable the headrest positioning relative to the chair back by selected degrees of manual force wherein the means for biasing includes an adjustment screw 46 (Fig. 4) and the chair back is capable of providing an opening (Fig. 8) upon removal of the fastener that permits access of a tool to the means for biasing to alter a biasing force of the retainer applied to the post. Claims 1, 4, 6, and 10 invoke 35 U.S.C. 112, sixth paragraph, with the claim recitation of "means for biasing" limiting claims to the disclosed description of the "means for biasing" or equivalents thereof.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 2, 8, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmedemann in view of U.S. Patent No. 3,578,384 to Leichtl.

Schmedemann discloses a chair that is basically the same as that recited in claims 2 and 8 except that the chair lacks a bearing, as recited in the claims. Leichtl shows a chair similar to that of Schmedemann wherein the chair has a chair back 10 (Fig. 1) with a retainer assembly (Fig. 2) and a bearing 52 (Fig. 6) of synthetic material enclosing a post 14 (Figs. 2 and 6). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair of Schmedemann such that the distal end of the arm and the post have a bearing of synthetic material interposed therebetween, such as the chair disclosed in Leichtl. One would have been motivated to make such a modification in view of the suggestion in Leichtl that the bearing of synthetic material provides a wear-resistant low friction insert sandwiched between the head rest post and support.

8. Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmedemann in view of U.S. Patent No. 4,682,817 to Freber and U.S. Patent No. 4,563,040 to Alster.

Schmedemann discloses a chair that is basically the same as that recited in claims 5 and 11 except that the cover plate lacks a removable fastener in axial alignment with the adjustment screw, as recited in the claims. See Figure 1 of Schmedemann for the teaching that the chair back has a cover plate 12. However, Schmedemann is silent as to how a tool accesses the cover plate to adjust the adjustment screw. Freber shows a chair similar to that of Schmedemann wherein the

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plate 50 (Fig. 9) has an access opening 52 (Fig. 9) in axial alignment with an adjustment screw 74 (Fig. 9) that contacts a means for biasing 56 (Fig. 9). Also, Alster shows a chair similar to that of Schmedemann wherein screws 44 (Fig. 1) have removable fasteners 72 (Fig. 1) that upon removal allow access to the screws. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the chair of Schmedemann such that the cover plate has fasteners normally extending through an opening in the cover plate and into the chair back wherein the fasteners are in axial alignment with the adjustment screws and upon fastener removal permits access to the adjustment screw through the opening for temporary application of a tool to adjustment screw to vary a force applied to the post by the arm, such as the chairs disclosed in Freber and Alster. One would have been motivated to make such a modification in view of the suggestion in Freber that the axially aligned opening in the plate provide access to the adjustment screw to vary the force applied by the means for biasing. One would have been motivated to make such a modification in view of the suggestion in Alster that the removable fasteners provide capping to the opening in the chair that houses the screw in order to have an flush appearance.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to chairs:

U.S. Pat. No. 3,698,765 to Olsen

U.S. Pat. No. 4,375,902 to Tai et al.

U.S. Pat. No. 4,483,565 to Terui et al.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joe Edell
June 7, 2005